

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review –)	CC Docket No. 98-171
Streamlined Contributor Reporting)	
Requirements Associated with Administration)	
of Telecommunications Relay Service, North)	
American Numbering Plan, Local Number)	
Portability, and Universal Service Support)	
Mechanisms)	
)	
Telecommunications Services for Individuals)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the)	
Americans with Disabilities Act of 1990)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan and North American)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution)	
Factor and Fund Size)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-1 16
)	
Truth-in-Billing and Billing Fomiat)	CC Docket No. <u>98-170</u>

ORDER AND SECOND ORDER ON RECONSIDERATION

Adopted: March 14,2003

Released: March 14,2003

By the Commission: Commissioner Adelstein issuing a separate statement; Commissioner Copps dissenting in part and issuing a separate statement.

I. INTRODUCTION

1. In this Order, we address petitions for interim waiver and several petitions for reconsideration of rules recently adopted in the *Interim Contribution Methodology Order* regarding the assessment and recovery of contributions to the federal universal service support

mechanisms.' We grant local exchange carriers' request for an interim waiver of section 54.712 of the Commission's rules to permit such carriers to continue to recover through the federal universal service line item certain contribution costs associated with Centrex customers on a per-line basis from multi-line business customers, pending action on petitions for reconsideration of this rule. In addition, we grant, in part, petitions filed by the United States Telecommunications Association (USTA) and SBC Communications Inc. (SBC) seeking reconsideration of section 54.712 to permit eligible telecommunications carriers (ETCs) to recover contribution costs associated with Lifeline customers' occasional interstate revenues through a universal service pass-through charge for such customers. We also address petitions filed by the National Exchange Carrier Association, Inc. (NECA), Verizon Wireless, and WorldCom, Inc. (WorldCom), and clarify how the Universal Service Administrative Corporation (USAC) shall conduct the universal service contribution true-up processes for revenues from 2002 and 2003. Finally, we grant, in part, a petition for reconsideration filed by AT&T Corp. (AT&T) requesting that the Commission announce the universal service contribution factor as a percentage rounded up to the nearest tenth of a percent.

II. BACKGROUND

2. On December 12, 2002, the Commission adopted interim modifications to the current revenue-based universal service assessment system to ensure the sufficiency and predictability of universal service while it considers reforms to sustain the universal service fund for the long term.² Among other things, the Commission adopted a general rule precluding telecommunications carriers from marking up universal service line-item amounts above the relevant contribution factor.³ The Commission concluded such action would prohibit carriers from recovering unrelated costs through universal service line items and from averaging contribution costs across all end-user customers. In addition, it would alleviate end-user confusion regarding universal service line items.⁴ The Commission recognized this rule would require some carriers to implement modifications to billing systems and therefore stated that it would not become effective until April 1, 2003.⁵

¹ See *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms. Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Repon and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) (*Interim Contribution Methodology Order*). To the extent not discussed herein, all remaining petitions for reconsideration and petitions for waiver will be addressed in a future order.

² See *Interim Contribution Methodology Order*.

³ See *id.* at paras. 45-63.

⁴ 47 C.F.R. § 54.712 ("the amount of the federal universal service line-item charge may not exceed the interstate telecommunications portion of that customer's bill times the relevant contribution factor").

⁵ See *Interim Contribution Methodology Order* at para. 52.

111. DISCUSSION

3. *Centrex*. In this Order, we grant, in part, petitions for interim waiver filed by BellSouth, National Exchange Carrier Association (NECA), National Telecommunications Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), SBC, and Verizon (Petitioners) of section 54.712(a) of our rules as it applies to the multi-line business customers of local exchange carriers, pending the Commission's resolution of petitions for reconsideration of the rule.⁶ We find Petitioners have demonstrated special circumstances to warrant deviation from our rule and that the public interest would be served by granting a limited interim waiver.⁷ Therefore, we waive section 54.712 on an interim basis to enable local exchange carriers to continue to recover federal universal service contribution costs through universal service line items using the equivalency ratios established for Centrex lines under our rules governing the Presubscribed Interexchange Carrier Charge (PICC).⁸ Until the Commission resolves pending petitions for reconsideration of section 54.712, local exchange carriers that utilize the PICC equivalency ratios when recovering contribution costs from Centrex customers will be permitted to recover a share of their contributions associated with the subscriber line charge for a specific Centrex line from their multi-line business customers in a given state.

4. Under sections 69.131 and 69.158 of our rules, local exchange carriers have the option of recovering their contribution costs from Centrex customers through a universal service line item that uses the equivalency ratios established for Centrex lines under our rules governing the PICC.⁹ In the *Access Charge Reform Reconsideration Order*, the Commission adopted, for purposes of the PICC, a ratio of up to nine Centrex lines to one PBX trunk.¹⁰ The Commission subsequently granted local exchange carriers the option of applying this equivalency ratio to the recovery of universal service contribution costs from Centrex customers.¹¹

⁶ See Verizon, SBC, BellSouth Joint Petition for Interim Waiver 3-5; NECA, NTCA, OPASTCO Joint Petition for Interim Waiver at 3-4. Several parties filed petitions for reconsideration of section 54.712(a) as it applies to non-Centrex multi-line business lines. See SBC Petition for Reconsideration at 7; USTA Petition for Reconsideration at 4.

⁷ See 47 C.F.R. § 1.3. See also *Northeast Cellular Telephone v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸ See 47 C.F.R. §§ 69.131, 69.153(e), 69.158.

⁹ See *id.*

¹⁰ See *Access Charge Reform, Price Cap Performance Review of Local Exchange Carriers, Transport Rate Structure*, CC Docket Nos. 96-262 and 94-1, Second Order on Reconsideration and Memorandum Opinion and Order, 12 FCC Rcd 16606, 16616-18, paras. 33-38 (1997). If a Centrex customer has fewer than nine lines, the maximum monthly PICC for each of those lines is the maximum allowable multi-line business PICC for that customer's local exchange carrier divided by the customer's number of Centrex lines. For example, if a Centrex customer has two lines, then each line is assessed half the maximum allowable multi-line business PICC, and if a Centrex customer has five lines, then each line is assessed at one-fifth the maximum allowable multi-line business PICC. See 47 C.F.R. § 69.153(e). Local exchange carriers may use these same calculations when recovering subscriber line charge related contribution costs from Centrex customers. See 47 C.F.R. §§ 69.131, 69.158.

¹¹ See *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, Sixth Repon and Order, *Low-Volume Long-Distance Users*, CC Docket No. 99-249, Repon and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45. Eleventh Report and Order, 15 FCC

5. In the *Interim Contribution Methodology Order*, the Commission adopted a general prohibition on the recovery of amounts in excess of contribution obligations through federal universal line-item charges. As discussed above, the Commission concluded such action would prevent carriers from recovering unrelated costs through universal service line items and from averaging contribution costs across all end-user customers.” In addition, it would alleviate end-user confusion regarding universal service line items.¹³

6. We conclude that special circumstances exist that warrant interim waiver of the rule. Petitioners have noted a potential inconsistency between sections 54.712, 69.131, and 69.158. They assert that if carriers are not permitted to increase recovery charges for multi-line business customers, they may be unable to continue to apply an equivalency ratio to Centrex universal service pass-through charges as permitted by sections 69.131 and 69.158 of our rules and still recover their contribution costs from their customers.¹⁴ They note the Commission did not indicate its intent in the *Interim Contribution Methodology Order* to overturn its existing policy of permitting local exchange carriers to apply an equivalency ratio to Centrex customer universal service pass-through charges.” To the contrary, they argue that the Commission recognized that it may be appropriate to continue applying the one-ninth equivalency ratio to Centrex customer lines in the event that a connection-based universal service contribution methodology is adopted.¹⁶

7. The petitions for reconsideration of this issue raise important issues we intend to resolve expeditiously. In the meanwhile, we believe the public interest would be served by granting a limited waiver of the general prohibition on averaging contribution costs among different customers for contribution costs not recovered by operation of the Centrex equivalency ratios to preserve the status quo for a limited period of time. Grant of this interim waiver does not represent a substantive change in Commission policy. To the contrary, grant of this interim waiver is only provided to allow carriers to continue an existing Commission policy, while we examine that policy and contribution issues more broadly. Until the Commission addresses pending petitions for reconsideration of this issue, local exchange carriers will be permitted to continue to average such unrecovered contribution costs across multi-line business customers.

8. Moreover, this interim waiver will prevent an unintended increase in universal service pass-through charges on current Centrex users, pending the Commission’s determination of the merits of the petitions for reconsideration on this and other related issues. Because most local exchange carriers currently apply the PICC equivalency ratios to Centrex universal service pass-through charges, the limited waiver we grant today will minimize changes in universal service line items for multi-line business customers in the immediate term, while carriers otherwise

Rcd 12962 (2000), *aff’d in parr, rev’d in parr, and remanded in parr, Texas Office of Public Util. Counsel et al. v. FCC*, No. 00-60434 (5th Cir. September 10, 2001).

¹² See *supra* para. 2.

¹³ See *Interim Contribution Methodology Order*, at paras. 45-50.

¹⁴ See Verizon, SBC, BellSouth Joint Petition for Interim Waiver 3-5.

¹⁵ See *id.* at 4.

¹⁶ See *id.* See also *Interim Contribution Methodology Order* at paras. 76, 87, 97.

implement the new rule on April 1, 2003. In particular, we note that several organizations representing state agencies have submitted letters in support of this action.¹⁷ These commenters note that state governments rely heavily on Centrex service and would be disproportionately affected by increases in universal service line item charges resulting from denial of the interim waiver.” We intend to weigh these and other arguments in reviewing the pending petitions for reconsideration.

9. We emphasize the limited nature of our action today. This waiver is limited to the narrow issue of how to accommodate existing Commission policies that the Commission did not directly address in the *Interim Contribution Methodology Order*. Except for this limited exception, all carriers (including local exchange carriers) will continue to be subject to broader limitations on the recovery of contribution costs through federal universal service line-item charges.

10. *Lifeline*. In addition, we grant, in part, petitions filed by SBC and USTA to reconsider section 54.712(b) of our rules, as it applies to the recovery of contributions associated with Lifeline customers.¹⁹ Specifically, we amend section 54.712(b) to permit ETCs to recover from Lifeline customers contribution costs associated with the provision of interstate telecommunications services that are not supported by the Commission’s universal service’ mechanisms. ETCs have always been free to recover such amounts from these customers in the past, and the Commission did not intend to preclude such recovery when it adopted the interim modifications in the *Interim Contribution Methodology Order*.

11. Sections 54.712(a) and (b) read together prohibit ETCs from recovering any contribution costs associated with Lifeline customers either from Lifeline customers directly or through a federal universal service line-item charge assessed on all other customers. When the Commission adopted section 54.712(b), it reasoned that because “customers of Lifeline services

¹⁷See Lener from Hale Irwin, NASTD – the Association of Telecommunications & Technology Professionals Serving State Government, to Marlene H. Donch, Federal Communications Commission, filed February 28, 2003 (*NASTD Ex Parte*); Lener from John H. Ford, State of Florida, State Technology Office, to Marlene H. Dortch, Federal Communications Commission, filed February 21, 2003 (*Florida State Technology Office Ex Parte*); Lener from Gerry Washington, National Association of State Chief Information Officers, to Marlene H. Dortch, Federal Communications Commission, filed February 28, 2003 (*NASCIO Ex Parte*). See also Lener from Bren Young, Marquette General Hospital to Federal Communications Commission, filed February 5, 2003 (*Marquette Ex Parte*); AT&T Comments on Verizon, SBC, BellSouth Joint Petition for Interim Waiver at 2.

¹⁸See *NASCIO Ex Parte* at 2 (“state governments’ operating costs will be disproportionately affected by this change because of our heavy reliance on Centrex services”); *NASTD Ex Parte* at 2 (“state governments rely heavily on Centrex for local service”); and *Florida State Technology Office Ex Parte* at 2 (“maintains over 200 Centrex systems with an estimated 200,000 lines statewide for [state agencies, universities, community colleges, libraries, local governments, school districts, and certain not-for-profit corporations, including private universities and health care providers.]” Commenter estimates financial impact on these lines will be about \$1 million per year.). See also *Marquette Ex Parte* at 1 (“[w]e at Marquette General Hospital rely primarily on Centrex lines to serve our entire 300 bed hospital, including patient rooms, clinical departments and administrative hospitals.” The proposed change “would have a significant adverse affect on the cost of our telephone service”).

¹⁹See SBC Petition for Reconsideration at 6-7; USTA Petition for Reconsideration at 12-13; see also SBC Comments at 3-4. See also 47 C.F.R. § 54.712(b) (“eligible telecommunications carriers may not recover federal universal service contribution costs from Lifeline customers”).

do not generate assessable interstate telecommunications revenues for ETCs, the relevant assessment rate and contribution amounts recovered from such customers would be zero.”²⁰ In particular, the Commission focused on the fact that Lifeline customers are not obligated to pay a subscriber line charge, which typically is a major source of interstate revenue for an ETC.²¹

Several large local exchange carriers, however, point out that customers of Lifeline services do in fact generate occasional interstate telecommunications revenues from interstate telecommunications services, such as one-time presubscribed interexchange carrier (PIC) change charges and other interstate intraLATA toll charges.²² These charges, however, are not associated with services subject to Lifeline discounts and, in any event, should not generate substantial contribution amounts.²³ Therefore, we find that ETCs should not be prohibited from recovering these minimal contributions associated with these occasional interstate charges from Lifeline customers.

12. Moreover, this modification will ensure that ETCs are not disadvantaged by our recovery limitations if they provide both local and long distance services to customers who participate in the Lifeline program. The combination of sections 54.712(a) and (b) could prohibit ETCs that provide both local and long distance services from recovering their contributions associated with such customer's long distance charges through any universal service line items.²⁴ Interexchange carriers that only provide long distance services to customers who also qualify for Lifeline, however, have always been permitted to recover their contribution costs from these customers and still are free to do so under the current rules. We do not believe this disparity in recovery practices is competitively neutral. Accordingly, we will amend our rules to permit ETCs to recover contribution costs associated with interstate long distance charges from Lifeline customers.

13. *True-Up Process for 2002 and 2003.* In response to petitions for reconsideration filed by NECA, Verizon Wireless, and WorldCom, we clarify how USAC will true up annual revenue data filed by contributors on the FCC Form 499-A against quarterly revenue data filed on the FCC Form 499-Q. Specifically, we clarify that USAC shall only apply the annual true-up to revenue periods for which universal service contributions actually were assessed: The annual true-ups for calendar year 2002 and 2003 revenues, therefore, will not apply to revenues from the fourth quarter of 2002 and the first quarter 2003.²⁵ As discussed below, we deny other proposed

²⁰ See *Interim Contribution Methodology Order* at para. 51

²¹ Services eligible for Lifeline discounts do not generate assessable interstate telecommunications revenues, because Lifeline customers are not assessed subscriber line, local number portability, or toll limitation charges

²² See Letter from Clint Odom, Verizon, to Marlene H. Dortch, Federal Communications Commission, filed February 14, 2003.

²³ See 47 C.F.R. §§ 54.101 (list of supposed services), 54.401 (Lifeline defined).

²⁴ Similarly, a wireless ETC that provides minutes of use that can be used for local or long distance calling and that uses the interim mobile wireless safe harbor or a proxy percentage based on traffic studies to determine its interstate revenues would incur assessable telecommunications revenues from a Lifeline customer.

²⁵ As described in the *Interim Contribution Methodology Order*, on April 1, 2003, USAC will convene from universal service assessments based on revenues from two quarters prior to projected revenues. See *Interim Contribution Methodology Order* at paras. 29-39. As a result, revenues from the fourth quarter of 2002 and the first quarter of 2003 will not be assessed.

modifications to USAC's true-up procedures or to the methodologies for calculating contributions to other support programs.²⁶

14. During the third quarter of each calendar year, USAC uses annual revenue data provided by contributors in the FCC Form 499-A to perform a true-up to quarterly revenue data submitted by contributors in FCC Form 499-Qs for the prior calendar year. As necessary, USAC refunds or collects from contributors any over-payments or under-payments. If the combined quarterly revenues reported by a contributor are greater than those reported on its annual revenue report (FCC Form 499-A), then a refund is provided to the contributor based on an average of the two lowest contribution factors for the year. If the combined quarterly revenues reported by a contributor are less than those reported on its FCC Form 499-A, USAC collects the difference from the contributor using an average of the two highest contribution factors for the year.

15. Because the purpose of the annual true-up is to ensure that interstate telecommunications providers contribute appropriate amounts to the universal service mechanisms based on quarterly revenue data, we agree with WorldCom and Verizon Wireless that USAC should only apply the true-up to revenue periods for which universal service contributions actually were assessed. If USAC applied the true-up to revenue periods for which universal service contributions were not assessed, certain providers' contribution obligation could potentially be increased or decreased.²⁷ Consistent with this conclusion, we direct USAC not to apply the annual true-ups for calendar years 2002 and 2003 to revenues from the fourth quarter 2002 and first quarter 2003.²⁸

16. The true-up for calendar year 2002 revenues will apply to revenues reported for the first three quarters of 2002, which were the basis for assessments in the third and fourth quarters of 2002 and the first quarter of 2003. The true-up for calendar year 2002 revenues will not apply to revenues reported for the fourth quarter of 2002. USAC will subtract revenues reported for the fourth quarter of 2002 from annual revenues reported on the FCC Form 499-A to arrive at an estimate of a contributor's actual revenues for the first three quarters of 2002. Consistent with USAC's current true-up procedures, USAC will then compare this amount to the sum of revenues reported for the first three quarters of 2002 to determine whether a refund or additional collection is warranted. Refunds will be based on the average of the two lowest contribution factors applied to revenues reported for the first three quarters of 2002. Additional collections will be based on the average of the two highest contribution factors applied to revenues reported for the first three quarters of 2002.

17. The true-up for calendar year 2003 revenues will apply to revenues projected for the second through fourth quarters of 2003. The true-up for calendar year 2003 revenues will not apply to revenues projected for the first quarter of 2003. USAC will subtract revenues projected for the first quarter of 2003 from annual revenues reported on the FCC Form 499-A to arrive at

²⁶ See NECA Petition for Reconsideration at 4

²⁷ For example, if a contributor reported correct amounts for periods subject to contribution obligations, but an incorrect amount for a period not subject to contribution obligations, it would be subject to a true-up based purely on the amount overreported or underreported for the period not originally subject to contribution obligations.

²⁸ See WorldCom Petition for Reconsideration at 3; Verizon Wireless Petition for Reconsideration at 13-14

an estimate of a contributor's actual revenues for the second through fourth quarters of 2003. USAC will then compare this amount to the sum of revenues projected for the second through fourth quarters of 2003 to determine whether a refund or collection is appropriate. In subsequent years, the annual true-up will continue to apply to any and all revenue periods for which contributions are assessed.

18. We deny NECA's proposal to conduct additional true-ups on a quarterly basis.²⁹ In addition to the annual true-up, NECA proposes a quarterly true-up mechanism in which a contributor's quarterly revenue projections would be compared to the corresponding quarter's actual revenue filed six months later.³⁰ Under NECA's proposal, any difference between projections and actual revenues would be applied to the relevant contribution factor for that calendar quarter to arrive at a true-up amount. We disagree with NECA that quarterly true-ups are appropriate because it is more difficult for contributors to project revenues than report historical revenues. As the Commission noted in the *Interim Contribution Methodology Order*, although the modified contribution methodology relies on the ability of contributors to project gross-billed and collected revenues, it only requires contributors to project for the upcoming quarter, which should minimize the potential for inaccurate estimates.³¹ In addition, contributors may correct their projections up to 45 days after the due date of each FCC Form 499-Q. We also note that by eliminating penalties for over- or under-reporting, NECA's quarterly true-up proposal would reduce incentives created under current true-up procedures for contributors to accurately forecast their revenues for the upcoming quarter.³² We therefore decline to adopt NECA's proposal at this time.

19. *Timing of Revised Safe Harbor for Mobile Wireless Providers.* We also reject Verizon Wireless's contention that the Commission retroactively changed reporting requirements for mobile wireless providers by requiring mobile wireless providers that choose to report their interstate telecommunications revenues based on an interim safe harbor to report an increased percentage of interstate revenues for the fourth quarter of 2002 and the first quarter of 2003.³³ In the *Interim Contribution Methodology Order*, the Commission increased to 28.5 the interim safe harbor that provides cellular, broadband Personal Communications Service, and certain Specialized Mobile Radio providers with the option of assuming that a fixed percentage of their telecommunications revenues are interstate with the presumption of reasonableness. The Commission's decision to increase the mobile wireless safe harbor was based, in large part, on traffic studies conducted in the third quarter of 2002 by five unnamed large national mobile wireless providers.³⁴ In the *Interim Contribution Methodology Order*, the Commission left

²⁹ See NECA Petition for Reconsideration at 4.

³⁰ *Id.*

³¹ See *Interim Contribution Methodology Order* at para. 36.

³² By contrast, under current procedures, refunds are based on the average of the two lowest contribution factors for the year and additional contributions are based on the average of the two highest contribution factors for the year.

³³ See Verizon Wireless Petition for Reconsideration at 13-14. See also *Interim Contribution Methodology Order* at para. 21.

³⁴ See Letter from Michael Altschul, Cellular Telecommunications and Internet Association, to Marlene H. Dortch, Federal Communications Commission, filed September 30, 2002. These traffic studies provided strong

unchanged mobile wireless providers' option of reporting actual interstate telecommunications revenues if they are able to do so.³⁵

20. Contrary to Verizon Wireless's contention, the rules adopted in the *Interim Contribution Methodology Order* do not impact revenues reported prior to January 29, 2003, the effective date of the order. The requirements adopted in the *Interim Contribution Methodology Order* only apply to future reporting obligations. For example, contributors to the federal universal service programs first reported revenues for the fourth quarter of 2002 and the first quarter of 2003 on the FCC Form 499-Q filed on February 3, 2003. Moreover, the increased interim safe harbor for mobile wireless providers will apply to universal service contributions beginning in the second quarter of 2003. These contributions will be based on projected revenues for the second quarter of 2003, which contributors reported on the February 3, 2003, FCC Form 499-Q.

21. The Commission also did not retroactively change revenue reporting requirements for other Commission programs, such as Local Number Portability, Numbering Administration, and Telecommunications Relay Service. The reporting of fourth quarter 2002 revenues for purposes of calculating assessment to other Commission programs will not occur until April 1, 2003. Contributions to these other programs are based on annual revenues reported on April 1st of each year. Assessments to these other programs based on calendar year 2002 revenues will not be billed until beginning in the third quarter of 2003. Likewise, reporting of revenues for the first quarter of 2003 for these other Commission programs will not occur until April 1, 2004, and will not be assessed until beginning in the third quarter of 2004. Therefore, we conclude that our decision to apply the revised interim wireless safe harbor to revenues reported for the fourth quarter of 2002 and the first quarter of 2003 does not constitute retroactive changes to reporting obligations or to contribution obligations.

22. Rounding Up the Contribution Factor. Finally, we grant, in part, a petition for reconsideration filed by AT&T requesting that the Commission announce the universal service contribution factor as a percentage rounded up to the nearest tenth of a percent.³⁶ Sprint and Verizon support AT&T's request.³⁷ We direct the Wireline Competition Bureau (Bureau) to announce a contribution factor rounded up to the nearest tenth of a percent (e.g., .073 or 7.3 percent). In order to allow an individual contributor the ability to recover the full amount of its contribution obligation through its federal universal line item, we also direct the Bureau to account for contribution factor rounding when calculating the circularity discount factor.³⁸

23. In the past, the Bureau has announced a contribution factor rounded to the nearest

evidence that the interstate telecommunications revenues of these representative mobile wireless providers already exceeded the interim safe harbor prior to the fourth quarter of 2002.

³⁵ See *Interim Contribution Methodology Order* at para. 22.

³⁶ See AT&T Petition for Reconsideration at 5-7.

³⁷ See Sprint Comments at 5; Verizon Comments at 3.

³⁸ The circularity discount factor is used to eliminate from a telecommunications provider's assessable revenue base amounts that would be derived from the telecommunications provider's federal universal service line-item charge. See *Interim Contribution Methodology Order* at para. 35.

1/10,000th of a percent (e.g., .072805). AT&T has asserted that some of its billing systems can only accommodate a factor of three digits beyond the decimal point.³⁹ Our decision today that the contribution factor be rounded up to the nearest tenth of a percent, and that rounding be accounted for when calculating circularity, accommodates concerns expressed by AT&T and others that billing system limitations, when coupled with the recovery limitations in section 54.712 of our rules, may inhibit some carriers' ability to recover a portion of their contribution costs through their federal universal service line-item charges.⁴⁰ This action also will prevent carriers from recovering amounts in excess of contribution obligations. We therefore conclude that each quarter the Bureau shall announce a contribution factor rounded up to the nearest tenth of a percent.

IV. ORDERING CLAUSES

24. Accordingly, IT IS ORDERED, pursuant to sections 1-4, 201-202, 254, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-202, 254, and 405 and section 1.108 of the Commission's rules, 47 C.F.R. § 1.108, this ORDER AND ORDER ON RECONSIDERATION is ADOPTED.

25. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 254 and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 254, and 405, and sections 1.3, 1.429 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.429, that the Verizon, SBC, and BellSouth Joint Petition for Interim Waiver and the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies Joint Petition for Interim Waiver are GRANTED to the extent indicated herein.

26. IT IS FURTHER ORDERED that, pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, the petitions for reconsideration filed by the United States Telecommunications Association and SBC Communications, Inc., are GRANTED to the extent indicated herein.

27. IT IS FURTHER ORDERED that, pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, the petition for reconsideration filed by the National Exchange Carrier Association, Inc. is DENIED.

28. IT IS FURTHER ORDERED that, pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, the petition for reconsideration filed by WorldCom, Inc., is GRANTED.

29. IT IS FURTHER ORDERED that, pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of the Commission's rules, 47

³⁹ See AT&T Petition for Reconsideration at 6

⁴⁰ See *id.*, Sprint Comments at 5; Verizon Comments at 3. There may be other reasons beyond the Commission's control for carrier undercollection of contribution obligations through federal universal service line-item charges, such as inaccurate revenue projections.

C.F.R. § 1.429, the petition for reconsideration filed by the Verizon Wireless is GRANTED, in part, and DENIED, in part, to the extent indicated herein.

30. IT IS FURTHER ORDERED that, pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.429 of ~~the~~ Commission's rules, 47 C.F.R. § 1.429, the petitions for reconsideration filed **by** AT&T Corp. is GRANTED to the extent indicated herein.

31. IT IS FURTHER ORDERED that section 54.712 of the Commission's rules, **47** C.F.R. § 54.712, IS AMENDED as set forth in Appendix A hereto, effective upon publication in the Federal Register.⁴¹

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴¹ We find good cause *to* make this rule change *effective* upon publication in the Federal Register because carriers must begin complying with the recovery limitations by April 1, **2003**.

APPENDIX A – FINAL RULES

Parts 54 and 69 of the Code of Federal Regulations are amended as follows:

PART 54 – UNIVERSAL SERVICE**Subpart H -- Administration**

1. Section 54.712 is revised by deleting paragraph (b).

**SEPARATE STATEMENT
OF COMMISSIONER JONATHAN S. ADELSTEIN**

RE: Interim Contribution Methodology Order

In December, the Commission adopted a general prohibition on the recovery of amounts in excess of contribution obligations through federal universal service line-item charges. Although I did not have the opportunity to vote that item, I do support that general prohibition.

We as a general matter today are granting an interim, very limited waiver of this prohibition to allow carriers to continue to apply an equivalency ratio to Centrex customers. We are preserving the status quo for a strictly limited time in order to avoid ~~an~~ unintended increase in universal service pass-through charges on Centrex customers including entities that rely heavily on this service, such as state governments, universities, community colleges, libraries, local governments, school districts and certain not-for-profit corporations, including private universities and health care providers.

The record reflects the substantial rate increase these institutions would experience but for our action today. Many of these entities are subject to budgeting processes that could make their very operation difficult in the event of an unplanned increase. Estimates are as high as five hundred thousand dollars on an annual basis.

In that this is an interim waiver, I ~~look~~ forward to discussing the merits of the petitions for reconsideration with my colleagues.

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,
APPROVING IN PART, DISSENTING IN PART

Re: *Federal-State Joint Board on Universal Service*

I dissent in part from today's decision to the extent it grants a waiver of our prohibition on carriers marking up their universal service line items. I am troubled by several aspects of this interim waiver of our interim rules. First, I am concerned that, after adopting a rule that prohibits mark-ups of the universal service line item just this past December, the Commission right out of the block grants a waiver without any analysis of the impact, the cost, or the precedent it creates for additional mark-ups. Second, these mark-ups may affect small and medium enterprises and will require these small businesses to subsidize large businesses. Finally, although the majority asserts that it will reexamine the issue in the near future, it provides no specific timeline for this proceeding. I have seen too often that interim policies can exist for years before the Commission addresses them. For the foregoing reasons, I respectfully dissent in part!